

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Status of Claims

Claims 1, 4-14 and 16-23 are currently pending in the application of which claims 1, 14, 17, 20 and 21 are independent. Claims 2, 3 and 15 have been canceled without prejudice or disclaimer of the subject matter contained therein.

Summary of the Office Action

Claims 1, 4, 7-10, 14 and 16-23 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Regan (US 2004/0213232) in view of Inada et al. (US Patent 6,775,769, "Inada") and in further view of Amara et al. (US Patent 6,839,338, "Amara"). Note that in the Office Action, the rejection stated that claims 1, 4, 7-10, 14 and 16-23 were rejected under 35 U.S.C. §102(e). Because the rejection combined three documents to reject these claims, it is clear that the rejection was supposed to be under 35 U.S.C. §103(a), instead of 102(e). The arguments below in response to this rejection will be addressed as though claims 1, 4, 7-10, 14 and 16-23 were rejected under 35 U.S.C. §103(a).

Claims 5 and 6 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Regan in view of Inada and Kojima et al. (US Patent 5,280,476, "Kojima").

Claim 12 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Regan in view of Inada, Amara, and Classon et al. (US Patent 6,700,867, "Classon").

Claim 13 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Regan in view of Amara and Engwer (US Patent 6,947,438).

The rejections are respectfully traversed for at least the reasons set forth below.

Drawings

The Office Action did not indicate whether the formal drawings filed with the application have been accepted. Indication of acceptance of the drawings is requested.

Claim Rejections Under 35 U.S.C. §103(a)

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S.398, 82 USPQ2d 1385 (2007):

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

As set forth in MPEP 2143.03, to ascertain the differences between the prior art and the claims at issue, “[a]ll claim limitations must be considered” because “all words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385. According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claimed invention would

have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

(A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006), “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness.”

Therefore, if the above-identified criteria and rationales are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

- **Claims 1, 4, 7-10, 14, and 16-23**

Claims 1, 4, 7-10, 14, and 16-23 were rejected 35 U.S.C. §102(e), as allegedly being anticipated by Regan in view of Inada and further in view of Amara. This rejection is respectfully traversed for at least the following reasons.

Claim 1 recites, among other elements, “the first header includes an Internet Protocol (IP) destination address corresponding to the mirroring destination address and said

identifier” (emphasis added). Regan, Inada and Amara, taken individually or in combination, fail to teach at least that feature of claim 1.

Regarding Regan, the Office Action at page 3 admits that Regan does not teach the first header as recited in claim 1. The Office Action then relies upon Inada as teaching that first header. However, it is respectfully submitted that Inada fails to teach the first header as recited in claim 1, because the header disclosed in Inada does not have an IP destination address and an identifier. In the Office Action, page 4, the rejection asserts that Inada teaches in col. 11, lines 43-52 a first header having a new IP address and an identifier. Col. 11, lines 43-52 of Inada does disclose a new IP header having an IP address. However, col. 11, lines 43-52 of Inada does not mention or suggest that the new IP header would include an identifier with the IP address. In fact, Inada does not appear to disclose a header that includes an IP destination address and an identifier, as recited in claim 1 anywhere in its disclosure. As a result, Inada fails to cure the deficiencies of Regan.

Amara also fails to teach a header including an IP destination address and an identifier. Although Amara discloses in Fig. 4 an IP header having a sequence number field 210, that IP header of Amara does not have both an IP destination address and an identifier, as recited in claim 1. Therefore, Amara does not overcome the deficiencies of Regan and Inada.

At least because Regan, Inada and Amara all fail to teach an IP header having an IP destination address and an identifier, the proposed combination of Regan, Inada and Amara fails to establish a prima facie case of obviousness against independent claim 1. Therefore, it is respectfully submitted that claim 1 is allowable over the proposed combination of Regan,

Inada and Amara. The Examiner is respectfully requested to withdraw the rejection of independent claim 1, and to allow claim 1.

Independent claims 14, 17, 20 and 21 each recite a first header including an IP destination address and an identifier, similar to claim 1. Thus, claims 14, 17, 20 and 21 are also believed to be allowable over the combination of Regan, Inada and Amara for at least the same reasons set forth above with respect to claim 1. It is therefore respectfully requested that the rejection of claims 14, 17, 20 and 21 be withdrawn, and the claims be allowed.

Claims 4, 7-10, 16, 18-19 and 22-23 are dependent from either independent claim 1, 14, 17 or 21. Thus, they are also believed to be allowable over the cited documents of record for at least the same reasons set forth above. It is therefore respectfully requested that the rejection of claims 4, 7-10, 16, 18-19 and 22-23 be withdrawn, and the claims be allowed.

- **Claims 5 and 6**

Claims 5 and 6 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Regan in view of Inada and Kojima. This rejection is respectfully traversed for at least the following reasons.

First, claims 5 and 6 are dependent from allowable independent claim 1. As discussed above, the proposed combination of Regan, Inada and Amara fails to disclose all of the features of independent claim 1. In setting forth the rejection of claims 5 and 6, the Office Action has not and cannot reasonably assert that the disclosure contained in Kojima makes up for any of the deficiencies discussed above with respect to the proposed combination.

Accordingly, even assuming for the sake of argument that one of ordinary skill in the art were somehow motivated to modify the proposed combination of Regan, Inada and Amara with

the disclosure contained in Kojima, the proposed modification would still fail to yield all of the features of independent claim 1.

In addition, the rejection of claims 5 and 6 fails to include Amara, which was used in the rejection of claim 1 as allegedly teaching “incrementing an identifier to indicate a position of the encrypted packet within an order of packets received by an exit device,” to overcome the deficiencies of Regan. Kojima fails to teach such “incrementing” feature. The Office Action also fails to point out a teaching of that “incrementing” feature in Kojima. Therefore, Kojima fails to cure at least that deficiency in Regan.

For at least the foregoing reasons, the Office Action has failed to establish that claims 5 and 6 are prima facie obvious in view of the combined disclosures contained in Regan, Inada and Kojima as proposed in the Office Action. The Examiner is therefore respectfully requested to withdraw the rejection of claims 5 and 6 and to allow these claims.

- **Claim 12**

Claim 12 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Regan in view of Inada, Amara and Classon. This rejection is respectfully traversed for at least the following reasons.

Claim 12 is dependent from allowable independent claim 1. As discussed above, the proposed combination of Regan, Inada and Amara fails to disclose all of the features of independent claim 1. In setting forth the rejection of claim 12, the Office Action has not and cannot reasonably assert that the disclosure contained in Classon makes up for any of the deficiencies discussed above with respect to the proposed combination. Accordingly, even assuming for the sake of argument that one of ordinary skill in the art were somehow

motivated to modify the proposed combination of Regan, Inada and Amara with the disclosure contained in Classon, the proposed modification would still fail to yield all of the features of independent claim 1.

For at least the foregoing reasons, the Office Action has failed to establish that claim 12 are *prima facie* obvious in view of the combined disclosures contained in Regan, Inada, Amara and Classon as proposed in the Office Action. The Examiner is therefore respectfully requested to withdraw the rejection of claim 12 and to allow this claim.

- **Claim 13**

Claim 13 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Regan in view of Amara and Engwer. This rejection is respectfully traversed for at least the following reasons.

Claim 13 is dependent from independent claim 1. As discussed above, the proposed combination of Regan, Inada and Amara fails to disclose all of the features of independent claim 1. In setting forth the rejection of claim 13, the Office Action has not and cannot reasonably assert that the disclosure contained in Engwer makes up for any of the deficiencies discussed above with respect to the proposed combination. Accordingly, even assuming for the sake of argument that one of ordinary skill in the art were somehow motivated to modify the proposed combination of Regan, Inada and Amara with the disclosure contained in Engwer, the proposed modification would still fail to yield all of the features of independent claim 1.

In addition, the rejection of claim 13 fails to include Inada, which was used in the rejection of claim 1 as allegedly teaching the first header that includes the IP destination and

the identifier, to overcome the deficiencies of Regan. Engwer fails to teach such a first header. The Office Action also fails to point out a teaching of such a first header in Engwer. Therefore, Engwer fails to at least cure that deficiency in Regan.

For at least the foregoing reasons, the Office Action has failed to establish that claim 13 is *prima facie* obvious in view of the combined disclosures contained in Regan, Amara and Engwer as proposed in the Office Action. The Examiner is therefore respectfully requested to withdraw the rejection of claim 13 and to allow this claim.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited. Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

PATENT

Atty Docket No.: 200314975-1

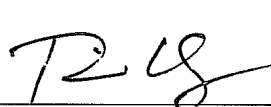
App. Ser. No.: 10/813,730

Please grant any required extensions of time and charge any fees due in connection with this request to Deposit Account No. 08-2025.

Respectfully submitted,

Dated: May 11, 2009

By
for

 *Timothy Kang*
Res. No. 46,423
Ashok K. Mannava
Registration No. 45,301
(703) 652-3822

MANNAVA & KANG, P.C.
11240 Waples Mill Road
Suite 300
Fairfax, VA 22030
(703) 865-5150 (facsimile)